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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 Michael Dewayne Outley, Jr.,

No. CV-18-02753-PHX-GMS (JFM)

10 Plaintiff,

ORDER

11 v.

12 Paul Penzone, et al.,

13 Defendants.

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16 Plaintiff Michael Dewayne Outley, Jr. (“Plaintiff”) brings this pro se civil rights
17 action against Defendant Maricopa County Sheriff Paul Penzone, Detention Captain Jesse
18 Spurgin, and Unknown Vail (collectively “Defendants”) alleging, *inter alia*, violations of
19 the Religious Land Use and Institutionalized Persons Act (RLUIPA) (Doc. 82). Plaintiff is
20 Muslim. He explains that “under Islamic tenets it’s a nudity taboo to be viewed in the nude
21 or to bathe or shower if others can view you.” (Doc. 82 at 4.) Thus, in Count One of the
22 Second Amended Complaint, Plaintiff asserts that the surveillance cameras in the shower
23 areas of Maricopa County Sheriff’s Office (“MCSO”) jails violate his rights under
24 RLUIPA.

25 Plaintiff, however, is no longer housed in a unit that uses cameras to survey the
26 shower areas. Instead, Plaintiff is currently housed in the Special Management Unit
27 (“SMU”) where he can shower inside his cell out of view of any cameras. Plaintiff asserts
28 that he intends to remain in SMU until he is sentenced, transferred, or released because “at

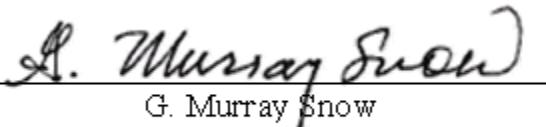
1 least [in SMU he] can observe [his] religious tenets daily.” (Doc. 82 at 5.)

2 Under RLUIPA, a plaintiff cannot sue for monetary damages and may only sue
3 defendants in their official capacities for prospective injunctive relief. *See Oklevueha*
4 *Native Am. Church of Hawaii, Inc. v. Holder*, 676 F.3d 829, 840 (9th Cir. 2012) (holding
5 that “appropriate relief” provision in Religious Freedom Restoration Act, like RLUIPA,
6 “could be read as authorizing only injunctive relief”); *see also Sossamon v. Texas*, 563 U.S.
7 277, 285-86 (2011) (holding that “appropriate relief” in RLUIPA was not sufficiently
8 specific to abrogate state sovereign immunity with respect to money damages).

9 Generally, “[o]nce an inmate is removed from the environment in which he is
10 subjected to the challenged policy or practice, absent a claim for damages, he no longer
11 has a legally cognizable interest in a judicial decision on the merits of his claim.” *Jones v.*
12 *Williams*, 791 F.3d 1023, 1031 (9th Cir. 2015) (quoting *Alvarez v Hill*, 667 F.3d 1061,
13 1064 (9th Cir. 2012)). Thus, in light of Plaintiff’s intent to remain in SMU, the Court
14 requests that the parties submit additional briefing to address why Plaintiff’s RLUIPA
15 claim in Count One of the Second Amended Complaint is not moot.

16 **IT IS HEREBY ORDERED** the parties shall submit simultaneous briefing by
17 **Friday, January 17, 2020** to address whether Plaintiff’s RLUIPA claim in Count One of
18 the Second Amended Complaint (Doc. 82) is moot in light of Plaintiff’s placement in SMU.
19 The briefing shall not exceed five pages in length.

20 Dated this 3rd day of January, 2020.

21 
22 G. Murray Snow
23 Chief United States District Judge